

A « NEGOTIATED PUBLIC ACTION » PERSPECTIVE FOR THE RESOLUTION OF WATER USE CONFLICTS

Sophie ALLAIN¹

ABSTRACT

Water use conflicts take up more and more room in many countries. The issue of conflict resolution in that field however raises both theoretical and practical questions. The aim of that paper is to examine them and to argue that a “Negotiated Public Action” perspective may allow both a better understanding of conflict resolution processes and the identification of new directions to improve such processes. After a theoretical discussion, the approach is applied to the analysis of empirical processes of conflict resolution.

RESUME

Les conflits d’usage de l’eau occupent une place de plus en plus importante dans de nombreux pays. La question de la résolution de conflits dans ce domaine soulève toutefois des questions à la fois théoriques et pratiques. L’objectif de cette communication est d’examiner celles-ci et de suggérer qu’une approche en terme d’« Action Publique Négociée » peut permettre à la fois une meilleure compréhension des processus de résolution de conflits et l’identification de nouvelles pistes pour améliorer de tels processus.

On commence pour cela par discuter la notion de « conflits d’usage de l’eau », puis ce que peut signifier « la résolution de conflits d’usage de l’eau », avant de développer le cadre théorique proposé. Celui-ci implique de considérer les processus de résolution de conflit à la fois dans un cadre socio-institutionnel élargi et à travers les interactions entre parties prenantes ; il suppose aussi de tenir compte du type de processus de résolution de conflit mobilisé.

On applique ensuite ce cadre à l’analyse comparative de deux situations françaises où des conflits d’usage de l’eau importants ont émergé avec le développement de l’irrigation (bassin de la Drôme et bassin de la Boutonne) et où trois types d’action publique ont été impliquées (projets d’aménagements hydrauliques, planification participative de bassin et mesures de gestion de crise).

Mots-clés :

Action publique, conflits, eau, négociation, bassin de la Drôme, bassin de la Boutonne.

¹ Research Fellow at the Institut National de la Recherche Agronomique
Ecole Normale Supérieure de Cachan - Groupe d’Analyse des Politiques Publiques (CNRS) sophie.allain@tiscali.fr

Water use conflicts take up more and more room in many countries, as a result of increasing and contradictory requirements towards water resources on the one hand, and of market mechanisms problems and traditional modes of government failures on the other hand. The issue of conflict resolution in that field however raises both theoretical and practical questions. The aim of that paper is to examine them and to argue that a “Negotiated Public Action” perspective may allow both a better understanding of conflict resolution processes and the identification of new directions to improve such processes. After a theoretical discussion, we will apply our approach to the analysis of empirical processes of conflict resolution.

BUILDING A THEORETICAL FRAMEWORK FOR THE RESOLUTION OF WATER USE CONFLICTS

What are water use conflicts?

In order to precise the notion of water use conflicts, we shall examine it from a double point of view:

- the notion of conflict itself
- the specificity of the field concerned here.

• The notion of conflict

The notion of conflict is a key-notion in many sociological theories. Without attempting to present a survey of that literature, it is worth noticing that two major questions help to differentiate the authors (Birnbaum, 1990; Thuderoz, 2000): firstly, is conflict considered as some kind of “pathology” and a specific moment within an overall state of harmony (1A), or, rather, is it viewed as a “normal” and permanent phenomenon (1B)? Secondly, is conflict determined by structural contradictions (2A), or does it stem from interactions among actors considered as acting intentionally (2B)?

Our own position is in line with the interactionist position (1B, 2B) of authors like Simmel (1995) and Weber (1995), which can be summarized as follows: Conflict always implies someone else, namely someone belonging to the same world and some intentionality (Weber, 1995). Interdependency and subjectivity are therefore key-notions to define conflict. That leads to highlight two ideas: conflict may unify, and not only separate and destroy (Simmel, 1995); besides, conflict has to be understood in the wide meaning of divergences of interests, claims and perspectives (Reynaud, 1982), and is constant in any society.

Consequently, water use conflicts may be defined as the concrete expression of divergences among a set of parties interconnected by their relations to water resources, as regards the use, development or management of those water resources.

• Water use conflicts are territorial public disputes

At first glance, water use conflicts refer to conflicts among water users about the access to scarce resources, and, therefore are assumed to mainly imply private economic interests. However, a more careful examination of such conflicts reveals that public interests may also be concerned (e.g., local authorities for the abstraction of water intended for human consumption), and that conflicts involve a wide range of issues (resource allocation, human safety issues in flood risk prevention, preservation of water quality or wetlands...), which do not only cover economic aspects. Furthermore, conflicts in that field may also concern a proposed project (e.g., a dam project), the enforcement of regulations (e.g., the limitation of water uses in a context of water shortage), or the implementation of a policy.

Therefore, water use conflicts may be portrayed as “*public disputes*” (Carpenter and Kennedy, 1988; Dukes, 1996), which can be defined as follows:

- They involve a “public”, namely a set of people, often referred to by such names as “the population”, “the citizens”, the “inhabitants”...
- They involve at least one public organization among the several (and often many) parties concerned, or which require a public authority intervention.

Furthermore, water use conflicts are *territorial* public disputes, to the extent that they affect a geographical area, which nevertheless may be more or less easily delimited, or that the demarcation lines are geographical (e.g., between upstream and downstream inhabitants).

What does resolution of water use conflicts mean?

The previous reflections lead us to examine the resolution of water use conflicts issue from a new point of view, to both understand processes and improve methods.

• Going beyond an instrumental and process-oriented conception of conflict resolution

As Dukes (1996) underlines, the literature of conflict resolution is dominated by an instrumental conception, leading to focus on the settlement of disputes and to questions of process. We here intend to argue that it is necessary to extend this representation of “conflict resolution”, by exploring three directions:

*** *Which principles are mobilized in conflict resolution situations?***

As authors like Freund (1983) or Boltanski and Thévenot (1991) highlighted, in most conflict situations, feelings of right and justice lie at the core of the disagreement. This is particularly true in the field of water use conflicts, where the access to water refers to basic human rights and where many regulations and rules, values and norms, shared meanings and cognitive frames, have been constructed over years.

Then, by extending the primary idea, we assume that any conflict resolution situation refers to elements of an encompassing institutional context, which can be made of regulative, normative and cultural-cognitive sets (Hoffman, 1997).

*** *What is the result of the process?***

Generally speaking, a conflict is considered as resolved, when an agreement between the parties has been reached. Such a conception may restrict the conflict resolution result to compromise solutions.

However, as Thuderoz (2000) underlines, as soon as we pay attention not only to the way of putting an end to the conflict, but also to the way of organizing the future, namely not only to disagreement management but also to agreement organization, we are conducted to examine decision-making and rules-determination issues. In the field of water use conflicts, disputes occurring in water shortage situations for example may be resolved by a limited compromise, but also by the definition of crisis management rules likely to be implemented in similar situations, or even by a more encompassing river-basin planning.

Furthermore, authors like Dukes (1996) or Rothman (2001) put forward that conflicts are not solely clashes of interests, but also confrontations of identities, involving struggles for recognition and

(re)-definitions of self. Along these lines, conflicts are not viewed primarily as problems to be resolved, or even managed, but as “opportunities for adaptation and learning” (Rothman, 2001); similarly, Dukes (1996) considers public conflict resolution as “a vehicle for transforming” citizenry, communities, and institutions.

Therefore, the notion of conflict resolution has to be linked to that of “social regulation” (Thuderoz, 2000), which includes instrumental notions of compromise, decisions and rules, but also social-institutional dimensions like identity and community-building.

*** *Which kind of conflict resolution process is actually used?***

Many conflict resolution processes exist, which have been identified and categorized by several authors (see, for example, Dupont, 1994; Thuderoz, 2000; Lewicki and alii, 2003).

We here propose to organize their classification according two directions:

- The first one stresses to what extent parties interact and have exchanges in the conflict resolution process, or, on the contrary, to what extent this process relies on other solutions requiring the appeal to an authority, or even to what extent parties try to avoid themselves.
- The second one stresses to what extent the conflict resolution process can be considered as a pure problem-solving process, where parties put their interests and powers between brackets in order to concentrate on solution-seeking (Dupont, 1994), or, on the contrary, to what extent the conflict resolution process relies on a pure win-lose process, where one party tries to dominate the other ones (Ib.).

The Figure No.1 presents the classification of ten conflict resolution processes – competition and resort to force, negotiation, cooperation, debate, vote, adjudication, appeal to an authority, expertise, and avoidance - according to these two directions.

Two processes can be considered as “substitute processes” (Dupont, 1994), to the extent that while they may temporary put an end to the conflict or reduce its intensity, they do not really allow the reaching of an agreement, and therefore remain outside the conflict resolution area on our Figure: these ones are debate on one side and avoidance on the other side, this last process including temporal processes such as postponing.

This Figure highlights tow key-processes (Thuderoz, 2000): *negotiation*, which is a joint conflict resolution process, and *appeal to an authority*, which is a hierarchical conflict resolution process. According to Thuderoz (2000), both processes take up more and more room in democratic societies, the development of one requiring the development of the other one; furthermore, he adds that both processes intertwine. This idea particularly fits the situations of water use conflict resolution, at least in democratic countries, as the French 1992 Water Law shows: indeed, this law incites to the development of negotiation through the creation of participative river-basin planning procedures, while at the same time it gives more power to representatives of the State to limit water uses in the case of critical shortage situations.

*** *Conclusion***

Those reflections have several consequences:

- Any water use conflict situation and dispute resolution process have to be considered embedded in an institutional context.
- The result of a dispute resolution process has to be viewed as a contribution to the construction of a new social order, which includes both an instrumental and an institutional dimension.

- In democratic countries, conflict resolution processes has to be primarily considered as an articulation between negotiation and appeal to an authority.

• Exploring new ways for methods of conflict resolution

Traditional methods of conflict resolution focus on the improvement in the collaboration. ADR (Alternative Dispute Resolution) methods cover “an array of techniques that try to change the nature of the relationship among parties, often through the use of intermediaries. ADR techniques include arbitration, facilitation, conciliation and mediation” (Gray, 1997, p. 178). Such methods typically focus on the process of conflict resolution itself.

New paths have also been opened in terms of “institutional design” (Goodin, 1996). Such approaches give a prominent role to institutions in the matter of shaping individual and group actions, and, furthermore, desires, preferences and motives. More precisely, many authors today pay attention to institutions likely to shape collective action, and, therefore, to go beyond the limitations of Market and State, for handling an increasing number of problems and conflicts, as well as for shaping new identities and communities. In the field of water management resources, Ostrom (1990, 1992) analyzed actual cases of such institutions.

Our previous reflections however encourage bringing closer both approaches, and therefore extending beyond the traditional distinction between those who seek to change the structure and those who focus on improving the process, between those who argue that governing involves designing relevant institutions and those who treat governing as a collective action management issue (Allain, 2002a). Actually, authors from both sides already suggest it: indeed, on one side, Gray (1997, p.235) points out, that “while most collaborations are temporary and exploratory ventures, they often produce lasting normative agreements among the stakeholders, and some even evolve into more enduring institutional forms. Therefore, consideration of the institutional aspects of collaborations is also warranted”. On the other side, Ostrom (1992) explains that it is important to devise rules and workable procedures for resolving conflict.

“A Negotiated Public Action” perspective

• Presentation of our theoretical framework

Our theoretical framework (Allain, 2002a) stems from an application of an interactionist approach to the analysis of “public action” (Thoenig, 1998, Duran, 1999), in the direction opened by Strauss (1978) and his “Negotiated Order” perspective:

- The concept of “public action” (Thoenig, 1998, Duran, 1999) refers to a collective action concerning public affairs, involving a variety of actors and aiming to solve problems (or undertake projects) with the general purpose of creating new social orders. This concept therefore calls for a horizontal representation of public affairs handling, and necessarily considers public action as a “situated action”, pertaining to a specific action context; it takes not only the instrumental dimension of public action into account, but also its institutional dimension.

- By negotiation, we mean a “kind of social interaction directed towards decision-making, which occurs among a set of parties interconnected by an interdependent situation about which they diverge, and which relies on exchanges among these parties during the course of an iterative and convergent process aimed at reaching a mutual-acceptable solution” (Allain, 2002a, adapted from Dupont, 1994). As regards Strauss (1978) besides, any social activity considered as a negotiation furthermore requires to be examined in close relationships with the “negotiation context” which influences its unfolding, as well as with the “alternative options” to the negotiation; the negotiation “outcomes” must be analyzed from the angle of their contribution to the creation of a “negotiated order”, which is part of more general social orders.

Briefly summarized, in this theoretical framework (Allain, 2002a), a public action is viewed as an encompassing negotiation pertaining to a larger social-institutional context and influenced by a specific “negotiation context”². It is a matter of understanding how this public action emerges from a “tense situation of interdependency concerning public affairs” and progresses through a process of “framing” and “organizing” to reach a new “negotiated order”. Along these lines, it is necessary to examine all the relevant “stakeholders’ behaviour” with respect to the particular collective action, some of them being directly involved while others remaining outside, and those behaviour being analyzed in terms of both “games” and “argumentation”. We have to pay close attention to the interactions among stakeholders taking place within specific “negotiation areas”, which represent exchanges spaces opened within the overall process, as well as to stakeholders’ interactions with the institutional context (e.g. to mobilise alternative options) or with others (e.g. to build coalitions).

• Implications for the analysis of water use conflict resolution

From our perspective, a conflict resolution process will be considered as a specific kind of public action, and therefore, as an encompassing negotiation aiming to produce a new “negotiated order” through the emergence and the progression of a “collective action”, and likely to be influenced by a specific “negotiation context”.

This “negotiation context” may specify several institutional conditions influencing the conflict resolution process:

- To what extent do the institutions shape the specific form of the conflict resolution process (does it meet the implementation of a specific procedure)? To what extent are the conditions for legitimising the outcomes of the process provided, and what are the forms of such legitimisation (vote, legal value, etc.)?
- To what extent do institutions formalise a negotiation framework to handle the process (such as specialized areas, list of participants, “third-party”...), or, on the contrary, to what extent do they provide for an appeal to authority?
- To what extent do they frame the conflict resolution domain, the issues at stake and their scope?
- To what extent is the conflict resolution process linked to other public actions?
- What are the alternative options and their scopes? Is participation to the conflict resolution process compulsory? Are actors able to use the court system for appeals, to solicit political-administrative authorities, to call out to public opinion (by means of the press, demonstrations, etc.)?

We are now going to show how our perspective may help to understand empirical processes of water use conflict resolution from a new vantage point.

ANALYZING EMPIRICAL PROCESSES OF WATER USE CONFLICT RESOLUTION

Our theoretical framework may be used at different levels, for analyzing how chronic water use conflicts are handled over years by the mean of different kind of public actions, but also for understanding how conflict resolution processes progress at a micro-level. We here chose to examine the first kind of contribution.

Water use conflict resolution in the Boutonne and in the Drôme river-basins

². All the words put in inverted commas in this paragraph represent concepts explained in Allain (2002a).

We shall compare two conflict resolution processes in France: one taking place in the Boutonne river-basin in the South-West, the other one in the Drôme river-basin in the South-East (Allain, 1999).

In both situations, water use conflicts emerged with the development of irrigation and the competition with other demands. Furthermore, both of them give the opportunity to examine how three main kinds of public actions have been employed over the ten past years (since the 1992 Water Law) to resolve those conflicts: dam projects - and, generally speaking, creation of new water resources -, water shortage management and participative river-basin planning (Allain, 2000; Allain, 2001; Allain, 2002b; Allain, 2003; Allain and Emerit, *forthcoming*).

The two last kinds of public action were introduced by the 1992 Water Law:

- the first one gives the Prefect the power to limit and even suspend irrigation in the case of critical water shortage situations (by increasing the period of prohibition progressively);
- the second one is the Water Management Plan procedure, called SAGE procedure³, which provides for the setting up of a multipartite body, the Local Water Commission, called CLE⁴, to define and implement a plan having a legal value directed to manage the water resources at the level of a river-basin. This body gathers stakeholders from different parts of the social-institutional sphere (50% elected people from local authorities, 25% representatives from water users and non-profit associations, 25% representatives from the State).

• Case No A - Water use conflict resolution in the Boutonne river-basin

In the Boutonne river-basin, irrigation developed strongly in the 80's, because of the introduction of corn production. Water use conflicts expanded at the end of the 80's, demands for irrigation competing with other demands: fishing and recreation activities, along the Boutonne River, but also oyster-farming in the Charente estuary, close to the Charente River locus into which the Boutonne River flows. Critical water shortage situations in 1989, 1990 and 1991 made the conflicts more acute.

The main solution thought of since the 70's to handle quantitative problems was being the building of a dam, in the framework of a large program covering the wide Charente river-basin, and initiated by the Water Agency (there actually were three dam projects). Concerning the dam-project located in the Boutonne river-basin, a first project was concretely defined at the end of the 80's, supported by local authorities and by the farming profession. Its main objective was the development of irrigation, relying on the setting-up of an important water-supply system. However, environmentalist associations protested against that project, which was not adopted after the public inquiry (1991), because of juridical decisions.

A second project was defined in 1993-94: the change, that occurred in the European Agricultural Policy in 1992 and which relativized the irrigation relevance, led the local authorities to mainly justify the building of the dam, as regards the oyster-farming needs and the achievement of a sufficient flow during the summer period (only a limited water-supply system was thought of). This project did not go further, as both the Ministry of the Environment and the Water Agency gave an unfavourable opinion.

A third project was designed in 1996-97 again, in new conditions: a steering committee was created, gathering representatives from the Ministry of Agriculture at the local level, the Ministry of the Environment, the Water Agency, local authorities, farming and oyster-farming professions, in order to discuss the technical propositions made by a new planning enterprise. However, instead of

³. SAGE stands for Schéma d'Aménagement et de Gestion des Eaux.

⁴. CLE stands for Commission Locale de l'Eau.

coming to an agreement, local authorities and the Ministry of the Environment fell into a stronger conflict, because the first ones did not accept the imposition of more severe rules of management for the irrigants. That situation conducted each party to resort to different authority resources to win against the other (expert appraisals, lobbying...). While a public inquiry took place in 1999, and while the project was adopted by the Prime Minister himself in 2001, this project is still conditioned by the definition of a Summer Management Plan, likely to determine quantitative rules of management at the level of the river-basin, and by favourable juridical decisions.

Since 1992, two other kinds of public intervention have been initiated to handle quantitative problems in the river-basin:

- A Water Management Plan project emerged just after the adoption of the 1992 Water Law and the CLE began to operate in 1997. However, during the entire period extending from the CLE setting up until the dam project adoption, no debate was organized within that body about the dam project. Indeed, the CLE focused on the analysis of the present situation and argued that the dam project concerning the future could only be discussed and taken into account further.

- Measures were also taken to limit irrigation in the case of critical water shortage situations. However, the measures were more severe and more strictly enforced in the north part of the river-basin than in the south part, which is located in another administrative territory. Furthermore, still in the north part of the river-basin, irrigants organized negotiations with the representatives from the State at the local level, in order to invent new types of measures likely to protect the water resources without spoiling the farming production (the general feature of these measures was to replace prohibitions of water use periods by a limitation of the whole water quantity used in summer and a controlled use of water over the entire irrigation period). Nothing similar was attempted in the south part, which was also the region likely to take advantage of the dam project, because irrigants argued that they would accept some limitation of the irrigation, only on condition that the dam is built.

• Case No B - Water use conflict resolution in the Drôme river-basin

In the Drôme river-basin, irrigation has been developing downstream in the valley since the 70's and above all in the 80's (mainly for corn production, then also for seed production and arboriculture). At the same time, there were growing needs of water for human consumption and increasing demands for the preservation of famous ecological systems in the valley.

At this period, as in the previous case, the main solution thought of was the building of a dam, on an upstream affluent, the Bez, located in the mountainous part of the river-basin. However, much opposition arose against this dam project: firstly, fishers and environmentalists associations, but also upstream population, protested against that project, because of the negative impacts of the dam on the agriculture, the tourism and the environment, while positive impacts were only expected downstream. Furthermore, the technical complexity of the project and the highlighting of subsequent heavy financial costs made local authorities more and more hesitant. At the end of the 80's, the stake was to include or not the dam project in a River Contract just about to be signed (this is a kind of public action aiming to mobilize different public financial sources in order to pay investments concerning one river). As no agreement was in sight, the River Contract was signed in 1990 without taking this project into account.

However, several successive years of critical water shortage (1989, 1990, 1991) increased the conflicts among local stakeholders, especially at the moment when the river was completely dried up. In order to find solutions, a downstream local authority, which played a major role in the definition of the previous River Contract, asked the Ministry of the Environment in 1991 to become a pilot-site to test the interest of the Water Management Plan procedure, which was on the point to be created by the 1992 Water Law. While the delimitation of the geographical area and the

composition of the CLE only occurred in 1993, a task-force including representatives from the State at the local level, from both downstream and upstream local authorities, and from the Water Agency began to work in the meanwhile.

In 1994, there was a critical water shortage situation again. In order to enforce the 1992 Water Law, the Prefect set up a committee, gathering representatives from the Ministry of Agriculture at the local level, irrigants associations, the Chamber of Agriculture, and fishers associations, to make decisions about the way to limit irrigation. In that region, where two irrigation systems coexist, one relying on individual abstractions and the other one on water supply systems, two kinds of measures were adopted: severe limitation of irrigation for individual irrigants and organisation of turns among the irrigants using collective systems. The implementation of those measures gave the opportunity to notice the efficiency of such turning systems.

The CLE, which began to operate in 1994, paid much attention to that issue of quantitative management (which was one of the two major problems remaining in the river-basin with that of sediment management): public meetings were firstly organized at the level of the six sub-river basins, in order to present the situation and make the local stakeholders acknowledge the necessity to handle this quantitative management problem. Then, orientations and objectives were determined by the CLE, relying on a technical study realized by the local services of the Ministry of the Environment: this study highlighted that it was necessary to create new resources to obtain a flow likely to allow satisfying conditions for aquatic ecosystems and recreation activities; it quantified the amount of water required to reach that objective 3 years out of 4, and it proposed a limitation of irrigation in the case of critical water shortage situations. Finally, there were meetings with the farming profession, conducted by the CLE's president and by the representative of the State responsible for the coordination of water policy at the local level, in order to make concrete propositions. Those ones were ratified by the CLE at the end of the process and were included in the plan which was adopted in December 1997. Three main rules were then fixed: a) the prohibition of the increasing of irrigated surface areas, which was a necessary condition to be able to reach the optimal flow objective; b) the creation of new water resources, relying on existing systems or on local potentialities; c) the organization of turning systems, for both individual and collective irrigation systems, to manage critical water shortage situations.

In order to be implemented, the measures a) and c) required subsequent legal decisions made by the representatives from the Ministry of Agriculture at the local level, concerning the giving of authorizations to irrigate, and the definition of the concrete measures to be applied in the case of critical water shortage situations relying on turning systems.

Comparison of the two cases

• Organizing issues

To compare these two processes of water use conflict resolution from our theoretical framework, we propose to analyze them relying on the following organizing issues:

- How does the conflict situation progress? Does the conflict become more acute, or does it begin a resolution process? What is the result of the process?
- How is the conflict resolution process shaped? Does it take place in the framework of an encompassing public action, or, on the contrary, does it imply several public actions?
- How are water use conflicts framed in the framework of the resolution process, in order to find solutions?
- Who participate to the conflict resolution process? How is this process organized?
- What are the respective place of negotiation and appeal to authority, and the relationships between these two items?

• Analysis and results

We are going to show that these two processes follow opposite paths, as regards these issues.

* *Progression of the conflict situation*

In the Boutonne river-basin, the conflict situation seems *difficult to turn into a resolution process progressing to an agreement* and the water use conflicts remain unresolved: each attempt to make a dam project adopted reaches a deadlock, and the other kinds of public intervention meet *avoidance situations*, where debate and decisions are postponed.

On the contrary, in the Drôme river-basin, after the failure of the dam project, the conflict situation is *turned into a resolution process*, where local stakeholders actively look for solutions likely to allow the reaching of an agreement.

* *Shape of the conflict resolution process*

In case No A, water use conflicts are mainly handled in the framework of the dam project. Or, rather, the conflict resolution process is replaced by *a problem-solving process* aiming to find a technical solution to resolve water use conflicts. This way seems *exclude* an articulation with other kinds of public intervention.

In case No B, after the failure of the dam project, water use conflicts are mainly handled in the framework of the Water Management Plan, namely in the framework of *an encompassing negotiation* concerning many water issues and at the level of the entire river-basin. Moreover, this way *does not exclude* articulation with other kinds of public intervention, especially water shortage management, but also new projects for the creation of water resources.

* *Framing of water use conflicts in order to find solutions*

In case No A, water used conflicts remain framed in terms of *insufficient water resources* and in terms of *one single solution* relying on a dam project. Only quite recently (2001) was acknowledged the necessity to define a Summer Management Plan, yet provided by the Water Agency for since 1996, in order to improve the quantitative management of water resources.

In case No B, water used conflicts are firstly framed in the same terms than in case No A, but after the failure of the dam project, they are framed in terms of *both insufficient water resources and necessary limitation of irrigation*. Consequently, *two kinds of solutions* are thought of, one relying on the creation of new resources, the other one on a control of the water used by irrigation. Furthermore, instead of focusing on one single kind of technical solution to create new resources (a dam project), other technical alternatives are examined.

* *Participants to the conflict resolution process and organization of this process*

In case No A, the dam project is mainly *controlled by the local authorities*. *Very little room is given to debate among local stakeholders*, as regards this specific issue of quantitative management of water resources. The only place allowing debate was the steering committee set up for defining the third project.

In case No B, the conflict resolution process involved *many stakeholders*, who were able to *debate in a variety of organizational areas*: firstly, because the process mainly relied on the SAGE

procedure, and therefore on the work of a multipartite body; but also, by the very way to manage the process, during the definition of the plan, as well as before the creation of the CLE. Indeed, key-stakeholders (local authorities of both upstream and downstream, and representatives from the State at the local level) began to meet in the framework of an informal task-force to prepare the work of the CLE. That allowed each party to acknowledge the necessity of handling unsolved problems and of collaborating. The definition of the plan itself involved a variety of stakeholders, by means of public meetings and meetings with the farming profession, in addition to CLE's meetings.

**** Place of negotiation and appeal to authority, and relationships between them***

Finally, it appears that the conflict resolution process mainly relies on *appeal to authority processes in case No A*, and on *negotiation processes in case No B*:

- In case No A, the dam project is controlled by local authorities, and many authority resources (resort to the courts, expert appraisals, lobbying) are mobilized to win against the other parties.

- In case No B, negotiation takes place not only in the main public action involved, a participative planning procedure, but also in informal places (the task-force gathering before the creation of the CLE) or in the framework of other public actions (committee gathered by the Prefect to take measures at the moment of critical water shortage).

Of course, negotiation and appeal to authority processes are present in both cases, but the relationships between both kinds of process are not the same in each case:

- In case No A, appeal to the authority can be viewed as an attempt to *avoid negotiation* or to *win* against the other parties; negotiation itself follows a win/lose logic rather than a win/win one;

- In case No B, appeal to the authority intervenes to *help the negotiation process*: namely, to go out of a deadlock and “re-shuffle the cards” (appeal to the Ministry of the Environment), to legitimate solutions (legal value of the Water Management Plan), and to make them implemented (translation of decisions in administrative measures).

• Conclusion

In case No A, where negotiation is very limited, water use conflicts remain difficult to resolve. The process mainly progresses through pure problem-solving and attempts to win processes, as well as avoidance processes and little room given to exchange. As a result, no innovative ways are explored: the conflict resolution process mainly relies on one single kind of public action and on one single technical solution.

In contrast, in case No B, where negotiation is very important, the process progresses in the direction of water use conflict resolution. Collaboration is progressively built among local stakeholders, relying on better taking into account of different points of views and interests and on many exchanges among stakeholders. As a result, new ways are successfully explored, involving several kinds of public action and technical solutions.

CONCLUSION

We have here proposed to analyze the resolution of water use conflicts from a new theoretical point of view, a “Negotiated Public Action” perspective, which implies to consider conflict resolution processes both in a broadened social institutional framework and through the interactions among stakeholders, and to pay much attention to the types of conflict resolution processes involved.

We showed how this framework may help to understand empirical processes of water use conflict resolution, why they meet difficulties or why they succeed. Such an approach may therefore be used

for practical applications, to implement such processes. Indeed, it gives the opportunity to identify ways to articulate public intervention, technical problem-solving and stakeholders' participation in order to prospect innovative solutions likely to allow the reaching of an agreement.

BIBLIOGRAPHY

- Allain S.. 1999. Bassin de la Boutonne (A), Vallée de la Drôme (B). In : Allain S., Delacourt A., Garin P., Montginoul M., Rossignol B., Ruf Th. - Gestion collective d'une ressource commune. Paris : ANDA.
- Allain S.. 2000. Application de la loi sur l'eau et processus de négociation. Limiter l'irrigation sans nuire à la production agricole. Gérer et Comprendre, juin 2000, 20-30.
- Allain S.. 2001. Planification participative de bassin et gouvernement de l'eau. Géocarrefour, vol 76, 3/2001, 199-209.
- Allain S.. 2002a. A "Negotiated Public Action" perspective for Public Management. Paper presented at the 18th EGOS Conference, Barcelona, 4-6/07/02.
- Allain S.. 2002b. La planification participative de bassin. Rapport final de synthèse pour le Groupe Inter-Bassins SDAGE-SAGE. Paris : INRA, ENS Cachan, CNRS-GAPP. <http://www.sitesage.org>
- Allain S., 2003. Délibérations et action publique locale : une approche en terme d'« action publique négociée » appliquée au domaine de l'eau. Colloque du CEDP, Tours, 14-16/05/03.
- Allain S., Emerit A.. *Forthcoming* (2003) - Projets d'aménagement hydraulique, concertation et planification participative de bassin : une approche en terme d'« Action Publique Négociée ». Natures, Sciences, Sociétés, N°3.
- Birnbaum P.. 1990 – Conflits. In: Boudon R. (dir): Traité de sociologie. Paris : PUF.
- Boltanski L., Thévenot L.. 1991 - De la Justification. Les économies de la grandeur. Paris: Gallimard.
- Carpenter S.L., Kennedy W.J.D.. 1988. Managing public disputes. San Francisco: Jossey Bass.
- Dierkes M., Berthoin A., Child J., Nonaka I. (Eds), 2001 – Handbook of Organizational Learning and Knowledge. London; Oxford University Press.
- Dukes E. F.. 1996. Resolving Public Conflict. Transforming community and governance. Manchester: Manchester University Press.
- Dupont Ch. 1994. La négociation. Conduite, théorie, applications. Paris : Dalloz, 4th ed.
- Duran P.. 1999. Penser l'action publique. Paris : L.G.D.J.
- Freund J.. 1983. Sociologie du conflit. Paris : PUF.
- Glasbergen P.. 1995. Managing Environmental Disputes. Dordrecht : Kluwer.
- Goodin R. E. (Ed.). 1996. The Theory of Institutional Design. Cambridge: Cambridge University Press.
- Gray B.. 1989. Collaborating. San Francisco. Jossey-Bass Publishers.
- Hoffman A. W.. 1997. From Heresy to Dogma: An Institutional History of Corporate Environmentalism. San Francisco: New Lexington Press.
- Lewicki R., Barry B., Saunders D., Minton J.. 2003. Negotiation. New York: MacGraw-Hill, 4th ed.
- Ostrom E.. 1990. Governing the Commons. The Evolution of Institutions for Collective Action. Cambridge, UK: Cambridge University Press.
- Ostrom E.. 1992 - Crafting Institutions for Self-Governing Irrigations Systems. San Francisco, California: ICS Press, Institute for Contemporary Studies.
- Reynaud J.-D.. 1982. Sociologie des conflits du travail. Paris : PUF.
- Rothman J., Friedman V. J.. 2001. Identity, Conflict, and Organizational Learning. In Dierkes and alii (dir.), 582 – 597.
- Simmel G.. 1995. Le conflit. Paris : Circé.

- Strauss A.. 1978. Negotiations: Varieties, Contexts, Processes and Social Order. San Francisco : Jossey-Bass.
- Thoenig J.-Cl.. 1998. Politiques publiques et action publique. *Revue Internationale de Politique Comparée*, Vol. 5, n°2, 295-314.
- Thuderoz Ch.. 2000. Négociation. *Essai de sociologie du lien social*. Paris : PUF.
- Weber M.. 1971. *Economie et Société*. Paris: Plon, 2nd ed., 1995.

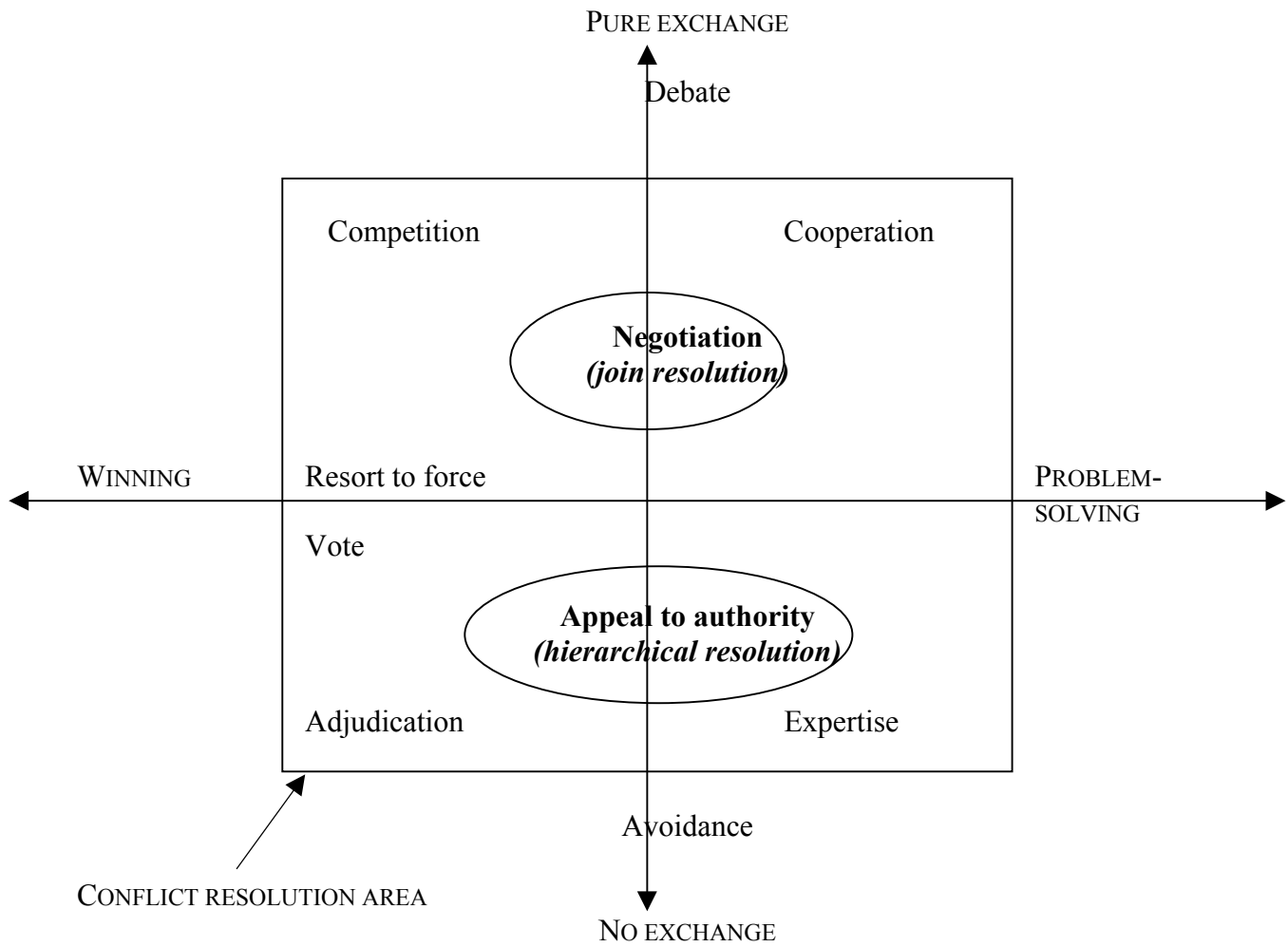


Figure No. 1 – Classification of conflict resolution processes